

**Women's Aid Consultation Response:
Home Office consultation on Strengthening
the Law on Domestic Abuse
October 2014**

women's aid
until women & children are safe

**Women's Aid response to the Home Office consultation on strengthening the
law on domestic abuse – October 2014**

Introduction

- Women's Aid is the national domestic violence charity that supports a network of around 300 local services working to end domestic violence against women and children in England. Our member services are integrated domestic violence service providers delivering a range of holistic services for women experiencing domestic violence and their children. Keeping the voices of survivors at the heart of its work, Women's Aid campaigns for better support for women and children, provides training and resources for professionals and delivers a package of vital 24 hour lifeline services through publications, websites and the National Domestic Violence Helpline (run in partnership with Refuge).
- Women's Aid Annual Survey 2013 of around 200 domestic violence services in England found that in 2012/13 these organisations supported over 110,000 women and children through refuge accommodation and outreach support. This includes nearly 10,000 women and over 10,000 children in refuge, and nearly 83,000 women and 14,000 children in outreach services.
- Women's Aid welcomes the opportunity to respond to the Home Office consultation on strengthening the law on domestic abuse and will restrict our comments to our area of expertise.
- Women's Aid believes that the laws used to criminalise domestic violence need to be strengthened to criminalise coercive and controlling behaviours in intimate relationships¹. Coercive control is a pattern of behaviour that can include different forms of abuse both violent and non-violent, such as psychological abuse, physical and/or sexual abuse, economic abuse and stalking.

1. Does the current law adequately provide sufficient protection to victims of domestic abuse?

No. The current approach to domestic violence is not working and at the root is a lack of understanding of the nature of domestic violence, coupled with the conflation of many different forms of violence within the term "domestic violence".

Currently the law does not enable women living with coercive controlling partners to escape easily and remain safe, it does not protect children witnessing that coercive behaviour that paralyses their mother with fear and it does not save the women killed by violent partners or ex-partners.

Domestic violence/abuse is currently used to describe a range of different forms of violence. As the HMIC report noted "Domestic abuse covers a wide range of different types of violence and behaviours and different perpetrators. It includes intimate partner violence, child abuse, elder abuse, sibling abuse, child to parent abuse, so-called "crimes of honour", female genital

¹ Intimate relationships are defined as relationships with current or former partners.

**Women's Aid Consultation Response:
Home Office consultation on Strengthening
the Law on Domestic Abuse
October 2014**

women's aid
until women & children are safe

mutilation, forced marriage and other violent acts within the family. There are marked differences between sibling abuse and intimate partner abuse. Intimate partner violence, which affects women disproportionately, includes a range of different types of violence including: physical and or/sexual violence; intimidation; isolation; control and the "micro management" of everyday life"².

The most prevalent form of domestic violence is violence in intimate relationships. Women's Aid has been providing support to women escaping violence for 40 years. The overwhelming majority of survivors we support have experienced a pattern of coercive and controlling behaviour that can combine physical, psychological, sexual, financial and other forms of violence, from current or former partners, husbands or boyfriends. The impact of this violence in close relationships on women and their children can be devastating and long lasting yet its essence of power and control is not criminalised. On average two women are murdered each week in England and Wales by their current or former partner. In 2012/13 it was estimated that 1.2 million women (7.1% of population) had experienced violence from intimate partners³.

The laws used to prosecute intimate partner violence – including assault, burglary, property, breach of a restraining order, rape, kidnapping and murder – do not address its core. Current legislation largely reinforces an approach based on incidents, rather than considering the pattern of coercive control as detailed in the cross-Government definition, and there is no mechanism for capturing patterns of power and control within an ongoing relationship.

Our extensive experience of working with victims tells us that there are multiple behaviours that women experience that are not criminalised but are harmful and dangerous. Psychological and emotional control is used, with the threat use of physical and or sexual violence to frighten and control their victims. Perpetrators exert control to subvert the victim's autonomy and sense of self. These behaviours are part of a pattern of violence. Below are examples that were posted on the Women's Aid Survivors' Forum in April 2014 that we believe are not currently effectively criminalised.

- *"My ex decided when the heating should be switched on, and if he decided no heating was necessary we froze. I wouldn't ever dare to say I was cold because the resulting verbal abuse and unpleasantness wasn't worth it".*
- *"Coercive control keeps you quiet. It makes you into a puppet. It appears to be normal behaviour, but the constant presence of it and the repetitious nature makes it something very different than a bad mood. A look is enough to keep you quiet and in line, but barely able to breathe."*

² HMIC, Everyone's business: Improving the police response to domestic abuse, March 2014, P29.

³ ONS Intimate Partner Violence and Partner Abuse (2014). While some men experience violence from a partner very few, around 5% of the population, experience repeated victimisation from a female partner. Hester, M (2009). 'Who Does What to Whom? Gender and Domestic Violence Perpetrators: Identifying Needs to Inform Early Intervention' Violence Against Women Research Group School for Policy Studies. University of Bristol.

**Women's Aid Consultation Response:
Home Office consultation on Strengthening
the Law on Domestic Abuse
October 2014**

women's aid
until women & children are safe

- *"He has full control of all my benefits.he takes equipment away from me. He runs up debts in both his; my name without talking to me - huge sums of £. He chooses if or when you can go out socially or on holiday."*
- *"He'd check my phone constantly...if he found any messages or the phone number, from someone he didn't like/approve of then he'd kick off and demand to know why I'm talking to them. If there was nothing on there, he'd kick off that I've obviously deleted it all. If I refused to let him check my phone, or put a code on it, I was obviously hiding something."*
- *"Had his friends watching me, eg in the local shop/ taxi firms, etc so he would know where I had been or what I bought"*

The HMIC report into police response to domestic violence published in March 2014 found "alarming and unacceptable weaknesses in some core policing activity"⁴ in relation to domestic violence. The report highlighted that the police often did not recognise and respond appropriately to domestic violence particularly when it was non-violent, often not recognising patterns of coercive controlling behaviour. HMIC made particular recommendations about training for police and for there to be a renewed effort to tackle domestic violence.

It is necessary to extend the law to recognise that violence in intimate relationships, at its most dangerous, is rarely a single incident of physical abuse but a pattern of ongoing controlling behaviour that involves psychological abuse as well as the threat or reality of physical and sexual violence. The police response naturally mirrors the legal framework within which the police operate: it is incident-led and does not take into account the pattern of behaviour, therefore failing to see its seriousness.

2. In what ways could the law be strengthened?

Women's Aid recommends that the law is strengthened by the introduction of a new criminal offence that enables a prosecution to be brought on the basis of "a course of conduct" of coercive control against victims of violence/abuse (physical and non-physical) in intimate relationships. This was recommended by the 2009 ACPO review⁵. The course of conduct criminalised should be specifically identified as a pattern of coercive and controlling behaviour that can include, but is not limited to physical and sexual violence and non-physical violence such as psychological abuse. It is important that the new offence recognises the impact of this form of violence on victims, which can be devastating. The new law therefore needs to include reference to the fact that the perpetrator should know, or reasonably ought to know that the course of conduct will cause the victim fear.

It is our opinion that the framework of the harassment and stalking legislation can be used to criminalise these behaviours. Whilst the Protection from Harassment Act (PHA) 1997 itself is not fit for purpose when looking at incidents that take place within an ongoing relationship, we believe that the same framework can be used when criminalising coercive control, a pattern of behaviour and psychological abuse.

⁴ Opcit, HMIC March 2014

⁵ Tackling Perpetrators Of Violence Against Women and Girls: ACPO Review for the Home Secretary, 2009, Proposal 4, p35

**Women's Aid Consultation Response:
Home Office consultation on Strengthening
the Law on Domestic Abuse
October 2014**

women's aid
until women & children are safe

We would suggest the creation of a summary only offence and an either way offence. The summary only offence would describe a course of conduct that would include psychological abuse and coercive control where the defendant knows, or ought to know that it amounts to a pattern of abuse to another. The more serious offence would describe either:

- a) A course of conduct which would cause another to fear that violence will be used against them where the defendant should know, or reasonably ought to know that this course of conduct will cause the other to fear so to fear on that occasion; or
- b) A course of conduct which would cause another serious alarm or distress where the defendant should know, or reasonably ought to know that this course of conduct will cause serious alarm or distress which has a "substantial adverse effect on the day-to-day activities of the victim".

As such, we suggest that a possible route for legislation would look similar to the PHA 1997.

3. Does the current law sufficiently capture the Government's non-statutory definition of domestic abuse?

No. Women's Aid believes that the law needs to be strengthened by criminalising coercive controlling behaviour which is a pattern of behaviour that includes psychological abuse as noted above.

We welcome the inclusion of coercive controlling behaviour in the new definition change in March 2013. However we would not support making the definition statutory. The conflation of family violence with violence in intimate relationships in the definition does not recognise that coercive control is an aspect of the latter and not the former⁶. Without the legal framework to enforce it, we, and many others, believe that the change in the definition has not had the desired effect in practice.

Members of Women's Aid Young People's Advisory Panel (a group of young people who have experienced domestic violence) felt that current laws do not capture what domestic violence really is and support the creation of a new law around coercive control. They felt that having this law would have better protected and supported them when they were experiencing violence and reporting to the police.

The Domestic Violence Law Reform campaign surveys of domestic violence victims and frontline domestic violence professionals show the strength of support for law change. The Victims' Voice survey⁷ found that:

- 98% of victims felt that reform of the law and practice around domestic violence is needed;
- 88% of respondents said the criminal justice system didn't take psychological harm into account;

⁶ Liz Kelly and Nicole Westmarland, Time for a rethink – why the current government definition of domestic violence is a problem, April 12th, 2014, <http://www.troubleandstrife.org/2014/04/time-for-a-rethink-why-the-current-government-definition-of-domestic-violence-is-a-problem/>

⁷ Domestic Violence Law Reform Campaign – The Victim's Voice Survey: Victim's Experience of Domestic Violence and the Criminal Justice System <http://paladinservice.co.uk/wp-content/uploads/2014/03/Victims-Voice-Report-March-2014-Website.pdf>

**Women's Aid Consultation Response:
Home Office consultation on Strengthening
the Law on Domestic Abuse
October 2014**

women's aid
until women & children are safe

- 57% who reported to police reported more than three instances of domestic violence, but 81% said the criminal justice system did not take any pattern of abuse into account.

The survey of frontline domestic violence professionals⁸ found that:

- 97% of frontline domestic violence professionals agree that coercive control should be recognised in law;
- 96% of frontline domestic violence professionals agree that patterns of behaviour should be recognised in law;
- 96% of frontline domestic violence professionals agree that coercive control, including psychological abuse should be recognised in law.
- Importantly, professionals who had worked with victims where coercive control, including psychological abuse had been present reported that three quarters (75.6%) of those victims didn't think a crime had been committed and so did not report to the police.

Our Victims' Voice and Frontline Domestic Violence Professionals Surveys clearly underline the need for change to create a culture where victims report much earlier, are believed when they do and the dynamics and patterns of abuse are recognised and understood. Ultimately we want to create a culture where violence in intimate relationships is both better understood and considered unacceptable, where perpetrators are held to account and where victims and their children are protected. We believe that criminalising coercive control in intimate relationships, which would include criminalising psychological abuse and patterns of behaviour, would be the catalyst needed for such a necessary change.

Legislation to better protect victims of violence in intimate relationships will not stop the violence overnight – but it will make clear the Government's commitment to ensuring that victims get the best protection and encourage a culture change in the justice system. It will require the police to have a clear understanding of the controlling behaviours used by perpetrators, the very real fear their victims experience and the impact it has on them and the tools to address it in order to prevent further harm and even death. It will give the police and victims the language to describe what they know is unacceptable behaviour, intervene at an earlier stage and will enable courts to sanction and prosecute perpetrators effectively.

The lack of recognition in law of the coercive and controlling behaviours at the centre of violence in intimate relationships contributes towards misunderstandings in the wider culture. Young people fail to recognise the damage caused by controlling relationships, and even frame that control as romantic or loving behaviour. Questions are often asked about why victims do not leave an abusive relationship, and a lack of understanding of this permeates the treatment victims receive across the whole range of statutory service settings, undermining efforts towards early identification and intervention.

We believe that following the HMIC report, with strong commitments to end domestic violence from the Prime Minister and Home Secretary and renewed interest in this issue from the media and public, now is the time to legislate and contribute to the process of culture change.

⁸ Domestic Violence Law Reform Campaign – survey of frontline domestic violence professionals (May 2014)

4. How would any changes you suggest be practically implemented?

The HMIC report identified the need for significant improvements to the collection of evidence in domestic violence cases. We agree and also believe that evidence should be collected regarding coercive control, including psychological abuse and patterns of behaviour. At first sight these behaviours may seem difficult to prove. However, the stalking legislation has demonstrated that similar behaviours can be proven by ensuring the 'course of conduct' is demonstrated by two or more behaviours, and at Section 4a causes "serious alarm or distress" which has a "substantial adverse effect on the day-to-day activities of the victim". This is designed to recognise the serious impact that stalking may have on victims, even where an explicit fear of violence is not created by each incident of stalking behaviour. The same would apply for coercive control and the psychological harm which it causes, and there are various practical ways that the evidence could be collected and proved including:

- Body worn cameras to collect evidence of the initial scene and behaviour of the alleged perpetrator.
- Monitoring the use by a person of the internet, e-mail or any other form of electronic communication
- Publishing any statement or material relating or purporting to relate to a person or purporting to originate from a person
- Interfering with any property in the possession of a person,
- Text and phone call records
- Watching or spying on a person
- Loitering in any place (whether public or private)
- Following a person
- Financial information (could be analysed for evidence of financial abuse).
- Evidence of repeated police callouts to a property.
- Records that the woman has kept herself of coercive and controlling behaviour and patterns of abuse.
- Physical or mental ill health: evidence from GP and other health professionals.
- Evidence from friends, family members, work colleagues or neighbours of repeated behaviour or patterns of abusive behaviour.
- The victim's deterioration in performance at work due to stress
- The victim stopping or changing the way they socialise

In order for any new law to better protect victims of domestic violence specialist training for frontline services such as the police and prosecutors on the nature and impact of coercive control would be required. A member of Women's Aid Young People's Advisory Panel who is a survivor of intimate partner violence stated that in her dealings with the police they often did not know the laws that could be used so clearly training has a key role to play.

We also believe that a general awareness raising campaign to support victims to recognise abuse would be beneficial accompanying a new law.

We believe that the key principles that should be taken into account when drafting legislation should include:

- An offence that allows the courts to take into account a variety of behaviours within a course of conduct in an intimate partner relationship, which together create an

**Women's Aid Consultation Response:
Home Office consultation on Strengthening
the Law on Domestic Abuse
October 2014**

women's aid
until women & children are safe

environment where the victim is controlled by the defendant and the victim's self-determination is impeded.

- That if one incident was serious enough to create an environment to cause the victim fear and/or distress to the point that either they believed that violence would be used against them and that as a result they changed their daily life to their detriment, this be included under the new law.
- An offence in an intimate partner relationship, which takes into account the psychological harm and the impact on the day-to-day activities of the victim which those behaviours cause, without being restricted by the high threshold of psychiatric diagnosis that currently applies when looking at actual bodily harm.
- That a course of conduct offence in an intimate partner relationship, includes the key principles of coercive control.
- That a course of conduct offence in an intimate partner relationship, reflects the true nature of domestic violence and as such includes behaviours that occurred during the relationship, regardless of whether there appears to be periods of 'affectionate life'.

We also believe that the Home Office should take into account concerns that we have about the creation of a new law and consider how these issues could be mitigated within the development of a new law. Concerns include ensuring that the new law does not increase the criminalisation of women victims by perpetrators and ensuring that the police and prosecutors don't view any new law as 'less than' and 'easier to charge with' than an offence of physical violence.

We believe that some of these concerns can be mitigated by ensuring that any new law is specific to intimate partner relationships and that the guidance for police and prosecutors outlines the nature of coercive control and the impact of this behaviour on women and children.

Conclusion

Coercive control is a patterns of abusive violent and non- violent behaviours including psychological violence and forms the essence of violence in intimate relationships. Yet this form of violence is not criminalised by current laws and thousands of women and children are left unprotected by the very services that have a duty to protect. Survivors/ victims of violence in intimate relationships and frontline domestic violence professionals believe that there is an urgent need for a change and a strengthening of the law and now is the time for the Government to act to save lives.

For more information please contact:

Clare Laxton
Public Policy Manager
Women's Aid
Telephone: 020 7566 2519
Email: c.laxton@womensaid.org.uk
Website: www.womenaid.org.uk